

R 101644Z JAN 07
FM AMEMBASSY BERLIN
TO RUEAWJA/DEPT OF JUSTICE WASHDC
RUEAHL/DEPT OF HOMELAND SECURITY WASHDC
RUEHC/SECSTATE WASHDC 6634
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUCNFRG/FRG COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 BERLIN 000060

SIPDIS

SIPDIS

E.O. 12958: DECL: 01/10/2017

TAGS: [KHL](#) [KJUS](#) [PTER](#) [PGOV](#) [EAIRGM](#) [EU](#) [GM](#)

SUBJECT: GERMAN OFFICIALS DISCUSS EU DATA PROTECTION AND
DATA RETENTION INITIATIVES

REF: A. 06 BRUSSELS 3381

[1](#)B. 06 STATE 184417

Classified By: Minister-Counselor for Economic Affairs Robert F. Cekuta
for Reasons 1.4 (b) and (d)

[1](#)1. (C) Summary. German Ministry of Interior (MOI) DG for Police and Counterterrorism Gunther Krause told a DHS-DoJ-USEU delegation the EU draft framework decision on sharing police and judicial information is unsatisfactory; Germany plans to re-write it during its 2007 EU Presidency. Concerning the German implementation of the EU Directive on Data Retention, Krause and Justice Ministry (MOJ) Deputy DG for Criminal Law Michael Grotz were more circumspect. The two appeared to differ on what Germany's stance should be, with MOI preferring longer retention, MOJ less. This was one of several instances when Krause and Grotz left the impression that the German MOJ and MOI did not fully concur on what the German position with respect to these issues should be. End Summary.

[1](#)2. (SBU) U.S. delegation
DHS Acting Assistant Secretary for International Affairs Paul Rosenzweig
DOJ Deputy Attorney General's Office Chief Privacy and Civil Rights Officer Jane Horvath
DOJ Deputy Assistant Attorney General Bruce Swartz
USEU Senior Counselor Mark Richard
Embassy Global Affairs Officer (notetaker)

German delegation
Ministry of Interior (MOI) DG for Police and Counterterrorism Gunther Krause
Ministry of Justice (MOJ) Deputy DG for Criminal Law Michael Grotz
MOI Deputy DG for Police Affairs Hans-Juergen Foerster
MOI Attorney, Office of Aviation Security Holger Sperlich
MOI Staff Member, Office of Police Information Systems Iris-Maria Marre

Draft Framework Decision on Law Enforcement Info Sharing

[1](#)3. (C) Following up on refs A and B and to express U.S. concerns about these EU proposals, Senior Counselor Richard outlined U.S. views. Krause responded EU member states had already placed 250 reservations in the text -- soon there might be more. "We're on the wrong path," Krause said but added "We have the same concerns as you." The 2007 German EU Presidency would likely draft a new framework decision, he stated. (Note: USEU learned that the idea to scrap the current draft and begin anew originated with the Office of Jonathan Faull, the Commission's DG for Justice, Freedom, and Security. The UK Mission to the EU told USEU that notwithstanding the 250 objections, the Committee would likely continue working off the previous text. End Note.) There were enough data protection control bodies already, Krause continued; there were German federal and state level

laws regarding law enforcement and data privacy -- "Was more regulation really needed at the EU level?" Krause asked. A third pillar framework decision is needed, he said, but not one that meddles in the domestic affairs of member states.

¶4. (C) Krause continued some Germans see the U.S as a data privacy "no man's land." Horvath provided an outline of U.S. data privacy law and described how important the issue is for the U.S. as well. Krause retreated somewhat and elaborated that it was "nonsense" that U.S. data privacy standards were accepted in the context of the U.S.-EUROPOL and U.S.-EUROJUST agreements, but not in other contexts.

No one in the EU, Krause said, opposed law enforcement data exchange with the U.S. Krause called "imperialism" the notion that EU data privacy officials would audit U.S. data privacy provisions. At the same time, however, Krause stressed some data protection provisions are needed in the framework decision for it to be acceptable to the Bundestag, other EU member states, and the European Parliament.

EU Directive on Data Retention

¶5. (C) Krause and Grotz spent less time discussing German implementation plans for the EU Data Retention Directive. They pointed out the lack of a comparable U.S. regulation. Judging from how the two officials spoke, the U.S. delegation concluded that the German government had not yet agreed on its position, with the MOI seeing more value in longer retention periods and the MOJ more concerned about data privacy and preferring shorter data retention. Krause indicted Germany might settle on a six month retention period.

¶6. (U) This cable was cleared by the delegation subsequent to their return to Washington/Brussels.

TIMKEN JR